

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DARNELL MCGARY,

Plaintiff,

v.

DR. TIM MCBATH, *et al*,

Defendants.

Case No. C05-5284FDB

ORDER DISMISSING  
FRIVOLOUS COMPLAINT

The Magistrate Judge recommends that this 42 U.S.C. § 1983 complaint be dismissed for certain fatal deficiencies and because it is frivolous. The Magistrate Judge gave Plaintiff an opportunity to amend his complaint, which, however, remained fatally deficient, as the allegations remained the same and Plaintiff failed to sufficiently allege facts showing that Defendants conspired to deprive him of his constitutional rights. Plaintiff has filed a response to the Report and Recommendation, which the Court has reviewed together with the Complaint and the Amended Complaint. Plaintiff has not demonstrated that the Magistrate Judge's conclusion is in error.

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the report and recommendation, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Plaintiff's complaint is DISMISSED WITH PREJUDICE as frivolous; and
- (3) The Clerk is directed to send copies of this Order to plaintiff and to the Hon. Karen L. Strombom.

DATED this 12<sup>th</sup> day of July 2005.



FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE